

**Cite: N.J.S.A. 34:19-1**  
**New Jersey Statutes Annotated**  
**Title 34 Labor and Workmen's Compensation**  
**Chapter 19 Employment Protection**

**34:19-1. Short title**

This act shall be known and may be cited as the "Conscientious Employee Protection Act."

**34:19-2. Definitions**

As used in this act:

a. "Employer" means any individual, partnership, association, corporation or any person or group of persons acting directly or indirectly on behalf of or in the interest of an employer with the employer's consent and shall include all branches of State Government, or the several counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.

b. "Employee" means any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

c. "Public body" means:

(1) the United States Congress, and State legislature, or any popularly-elected local governmental body, or any member or employee thereof;

(2) any federal, State, or local judiciary, or any member or employee thereof, or any grand or petit jury;

(3) any federal, State, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;

(4) any federal, State, or local law enforcement agency, prosecutorial office, or police or peace officer;

(5) any federal, State or local department of an executive branch of government; or

(6) any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.

d. "Supervisor" means any individual with an employer's organization who has the authority to direct and control the work performance of the affected employee, who has authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains, or who has been designated by the employer on the notice required under section 7 of this act.

e. "Retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

f. "Improper quality of patient care" means, with respect to patient care, any practice, procedure, action or failure to act of an employer that is a health care provider which violates any law or any rule, regulation or declaratory ruling adopted pursuant to law, or any professional code of ethics.

### **34:19-3. Employer retaliatory action; protected employee actions**

An employer shall not take any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or
- c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
  - (1) is in violation of a law, or a rule or regulation promulgated pursuant to law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
  - (2) is fraudulent or criminal; or
  - (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

### **34:19-4. Disclosure to public body; requirement of notice and opportunity to correct**

The protection against retaliatory action provided by this act pertaining to disclosure to a public body shall not apply to an employee who makes a disclosure to a public body unless the employee has brought the activity, policy or practice in violation of a law, or a rule or regulation promulgated pursuant to law to the attention of a supervisor of the employee by written notice and has afforded the employer a reasonable opportunity to correct the activity, policy or practice. Disclosure shall not be required where the employee is reasonably certain that the activity, policy or practice is known to one or more supervisors of the employer or where the employee reasonably fears physical harm as a result of the disclosure provided, however, that the situation is emergency in nature.

### **34:19-5. Violations; civil action**

Upon a violation of any of the provisions of this act, an aggrieved employee or former employee may, within one year, institute a civil action in a court of competent jurisdiction. Upon the application of any party, a jury trial shall be directed to try the validity of any claim under this act specified in the suit. All remedies available in common law tort actions shall be available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided by this act or any other statute. The court may also order:

- a. An injunction to restrain continued violation of this act;

- b. The reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position;
- c. The reinstatement of full fringe benefits and seniority rights;
- d. The compensation for lost wages, benefits and other remuneration;
- e. The payment by the employer of reasonable costs, and attorney's fees;
- f. Punitive damages; or
- g. An assessment of a civil fine of not more than \$1,000.00 for the first violation of the act and not more than \$5,000.00 for each subsequent violation, which shall be paid to the State Treasurer for deposit in the General Fund.

**34:19-6. Award of attorney's fees and costs to employer; action without basis in law or fact**

A court, upon notice of motion in accordance with the Rules Governing the Courts of the State of New Jersey, may also order that reasonable attorneys' fees and court costs be awarded to an employer if the court determines that an action brought by an employee under this act was without basis in law or in fact. However, an employee shall not be assessed attorneys' fees under this section if, after exercising reasonable and diligent efforts after filing a suit, the employee files a voluntary dismissal concerning the employer, within a reasonable time after determining that the employer would not be found to be liable for damages.

**34:19-7. Informing employees of protections and obligations under act; name of person designated to receive notices**

An employer shall conspicuously display notices of its employees' protections and obligations under this act, and use other appropriate means to keep its employees so informed. Each notice posted pursuant to this section shall include the name of the person or persons the employer has designated to receive written notifications pursuant to section 4 of this act.

**34:19-8. Effect of act on rights, privileges, or remedies of employees under other laws, regulations, or agreements**

Nothing in this act shall be deemed to diminish the rights, privileges, or remedies of any employee under any other federal or State law or regulation or under any collective bargaining agreement or employment contract; except that the institution of an action in accordance with this act shall be deemed a waiver of the rights and remedies available under any other contract, collective bargaining agreement, State law, rule or regulation or under the common law.